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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,897	03/17/2004	Todd L. DePue	1-74557	4617

27377 7590 09/23/2005

MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA-FOURTH FLOOR
720 WATER STREET
TOLEDO, OH 43604

EXAMINER

STERLING, AMY JO

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/802,897

Applicant(s)

DEPUE ET AL.

Examiner

Amy J. Sterling

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the **Final Office Action** for application number 10/802,897 Cup Holder with Sensor, filed on 3/17/04. Claims 21-36 are pending. This **Final Office Action** is in response to applicant's reply dated 7/26/05. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Applicant's amendment necessitated any new ground(s) of rejection presented in this Office action.

Claim Rejections - 35 USC § 102

Claims 21-23, 25, 28-32, 34 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 6230948 to Steiger et al.

Steiger et al. teaches a body (1) including a generally horizontal support surface, an optical sensor (20, infrared sensor used optics to sense presence of the article) supported and positioned relative to and within the body opposite the support surface, a support member supported on the body which has pivoting movement about an axis that extends generally vertically, an actuator (10) that is responsive to the sensor.

Claim Rejections - 35 USC § 103

Claims 24, 26, 33 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 6230948 to Steiger et al. as applied to claim 21 above and further in view of United States Patent No. 5103279 to Gutteridge.

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Steiger et al. discloses the basic inventive concept with the exception that it does not specifically teach that the sensor is a field effect device. Also, the sensor is Steger et al. senses the presence of the article, but does not specifically define that the presence includes a diameter, a height, a width, a perimeter, or the weight of the article.

Gutteridge discloses a field effect sensor which is used to sense pressure (See Col. 1 lines 6-9). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Gutteridge to have used a field effect sensor for the pressure sensor application, in order to accurately sense an input of pressure.

Claims 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 6230948 to Steiger et al. as applied to claim 21 above and further in view of United States Patent Publication No. 2003/006258 to Leopold et al.

Steiger et al. discloses the basic inventive concept with the exception that it does not teach wherein the support member movement is pivoting about a generally horizontal axis.

Leopold et al. teaches a device for supporting an article in which has a horizontal support surface and support members (26) which pivot about a generally horizontal axis, used to support the article in the desired location. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Leopold et al. to have made the support members pivot about a generally horizontal axis in order to support the article in a desired location.

Response to Arguments

Applicant's arguments with respect to claims 21-36 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action. Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 571-272-6823. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached at 571-272-6788. The fax machine number for the Technology center is 571-273-8300 (formal amendments) or 571-273-6823 (informal amendments and

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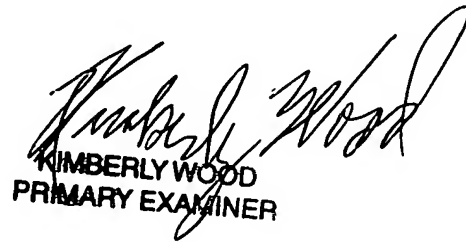
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communications). Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 571-272-3600.



AJS
Amy J. Sterling
9/14/05



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PRIMARY EXAMINER